

ARTICLE B. WATER AND SEWER SERVICE

7-4B-1: REQUESTS FOR SERVICE:

The provisions of this section and sections 7-4B-2, 7-4B-3 and 7-4B-4 of this article shall govern requests for water and sewer service under this chapter.

- A. Requests for water and sewer service shall be made on forms provided and by accepting service applicant agrees to comply with all rules, regulations and conditions relating to such water and sewer service, including payment when due of all water and sewer rates, assessments, rentals, fines and penalties assessed, or charges imposed, for or in connection with such requested service. Forms are available upon request from the director of public works or his representative.
- B. In the case of new construction, or plumbing modifications, alterations or repairs involving new service pipes or related connections, a request for service shall be accompanied by a certificate of approval of such work issued by the director of public works under the provisions of section 7-4B-2 of this article. (Ord. 503, 4-21-1980, eff. 5-1-1980)
- C. Where such requested service is for the use or benefit of a person other than the owner of the premises to be so served, such request for service shall be made together with a deposit in the sum of fifty dollars (\$50.00). This deposit shall be retained by the city to secure payment of all bills. At such time as such service is terminated, said deposit shall be refunded without interest, less any amounts still due and owing the city for such service up to the time of termination. (Ord. 614, 4-19-1982)
- D. Water and sewer services shall be provided only to: 1) properties located within the corporate limits of the city, or 2) properties located outside the city limits, provided that there is a preannexation agreement in effect, or 3) governmental agency properties located outside the city limits, provided that there is in effect an intergovernmental agreement between the governmental agency and the city. The rates and charges for service outside the corporate limits of the city shall be established in the preannexation agreement or intergovernmental agreement. (Ord. 2135, 5-17-2004)

7-4B-2: CERTIFICATE OF APPROVAL:

No water shall be pumped from any well nor shall water be turned on or sewer service provided to any premises in which the plumbing does not comply with the provisions of the building code. In the case of work completed under permit issued by the director of public works, such compliance shall be evidenced by the issuance of a certificate of approval.

The foregoing provisions to the contrary notwithstanding, water service may be rendered on a temporary basis by the director of public works for construction work in progress upon the recommendation of the building commissioner. (Ord. 503, 4-21-1980, eff. 5-1-1980)

7-4B-3: TURNING ON WATER:

Upon compliance with the provisions of this chapter, the director of public works or his representative shall be notified of the request for service, and he shall make the necessary arrangements for the turning on of the water. No water shall be turned on by any person other than authorized by the director of public works. (Ord. 503, 4-21-1980, eff. 5-1-1980)

7-4B-4: NEW SERVICE CONNECTIONS:

- A. No service pipes shall be installed, connected or repaired without a permit for each such installation or connection. Application for such permit shall be made to the director of public works and shall be signed by the owner or tenant of the premises involved, and by the plumbing contractor by whom the work is to be performed. Such applications shall be made on forms furnished by the city and shall state the size and location of the tap and shutoff box required, if any, and the size and composition of the service pipe to be used, a description of the property to be served, and the location upon said property of the service pipe and water meter to be installed therein.
- B. If the director of public works shall find that the application conforms to the provisions of this chapter, he shall issue a permit for such work.
- C. All work shall conform to specifications set forth in the building code, including the size and composition of the service pipe and related fittings, and the manner of laying same.
- D. All excavations in connection with the installation of service pipe shall be performed in accordance with the standards and requirements of the building code.
- E. Before commencing the installation of any service pipe hereunder, the contractor or owner or tenant of the premises shall notify the director of public works at least twenty four (24) hours in advance of commencing such work.
- F. No excavation performed in connection with such work shall be backfilled before the installation has been inspected and approved by the building inspector. At such time of inspection the completed service pipe,

water meter and related fittings shall be subjected to a pressure test at city pressure; each such installation shall sustain the existing city pressure for a period of not less than fifteen (15) minutes without leakage before being approved.

- G. Upon satisfactory completion of the inspection and testing of such work, and upon the satisfactory backfilling of all excavations made in connection with such work, the director of public works shall issue a written certificate of approval for such installation.
- H. The filing of an application for a permit pursuant to this section shall be deemed consent by the owner or tenant of the premises involved to entry upon such premises by the director of public works or his duly authorized representative for the purpose of making such inspections. (Ord. 503, 4-21-1980, eff. 5-1-1980)

7-4B-5: TAPPING WATER MAINS:

- A. Where new service pipes require the tapping of water mains and the installation of shutoff boxes, it shall be the responsibility of the person obtaining water service, at his own expense, to provide proper excavating to the water main, to backfill same, to restore the street area to its original condition, including repaving where necessary, to make such tap-ons, install and connect service pipe to the shutoff box, install the shutoff box, and furnish all materials respecting same. If any of the aforesaid work does not conform with the building code, or this chapter, the city may complete the work and bill the occupant or owner of the premises to the same extent and with the same effect as delinquent water and sewer charges. All work shall conform to the specifications of the city building code and such amendments thereto as may be enacted. All such work shall be done under the supervision of the director of public works and a certificate of approval must be issued prior to the provision of any water service.
- B. Where such tap-ons are required, the applicant for a permit under this subsection B shall also, as a condition precedent to the issuance thereof, pay to the city a tap-on fee. The minimum amount of said fee shall be as follows:

CONNECTION FEES AND CHARGES

Diameter Of Domestic Water Service Pipe	Water Service Charges
1 inch	\$ 1,000 .00
1½ inches	2,150 .00
2 inches	5,770 .00
3 inches	7,525 .00

4 inches	15,500 .00
6 inches	30,100 .00

There will be an additional charge for meters as follows: Cost to the city plus a twenty percent (20%) administrative charge.

- C. In the event that the city requests a customer to relocate the domestic water service line due to the city's construction of a new water main, the customer shall not be responsible for any water tap-on fee associated with the new connection, and the city shall reimburse the customer up to two hundred dollars (\$200.00) toward the customer's cost of relocation of the water service line. This subsection C shall only apply to connections made on or before November 1, 1993.
- D. In the event that the city incurs extraordinary or additional facilities costs beyond those normally and customarily required to provide water service to the customer (e.g., oversized water mains, additional wells, etc.), a tap-on surcharge shall be added to the minimum water service tap-on charge. The city engineer and city council shall determine the appropriate amount of the tap-on surcharge to be charged the customer based upon: 1) the total amount of extraordinary or additional costs incurred by the city, and 2) an allocation of the extraordinary or additional city costs to each benefited customer property. The determination of the tap-on surcharge shall be recorded with the recorder of deeds of DuPage County and shall identify the customer properties subject to the tap-on surcharge and the amount of the tap-on surcharge applicable to each such property.
- E. The aforesaid water service connection fees and charges and water service tap-on surcharges are hereby adopted by the city pursuant to, and in the exercise of, its home rule authority. (Ord. 2870, 8-4-2014)

7-4B-6: TAPPING SANITARY SEWER MAINS:

- A. Where sanitary sewer service requires the tapping of sanitary sewers, it shall be the responsibility of the person obtaining sanitary sewer service, at his own expense, to provide proper excavating to the sanitary sewer, to backfill same, to make the necessary connection to the sanitary sewer, and to restore the street area to its original condition, including repaving or any other restoration where necessary.
- B. All work shall conform to specifications set forth in the building code. When the sanitary sewer connection is made to the public sewer system of the city, the connection shall be made under the supervision of the director of public works or his representative, and a certificate of approval must be issued prior to the use thereof.

- C. Where such tap-ons are required with the combined water and sewer system which is operated and maintained by the city, the applicant for a permit under subsection 7-4D-3B of this chapter shall also, as a condition prerequisite to the issuance thereof, pay to the city a tap-on fee.
- D. The charge for each sanitary sewer service connection shall be as herein set forth. The charge for each water service connection shall be based upon the diameter of the water service pipe. The charge for each sewer connection shall be based upon the diameter of the water service connection serving the same premises, regardless of the diameter of the sanitary sewer service connection tile or pipe. The minimum sanitary sewer tap-on fee shall be as follows:

CONNECTION FEES AND CHARGES

Diameter Of Domestic Water Service Pipe	Sanitary Sewer Service Charges
1 inch	\$ 1,000 .00
1½ inches	2,150 .00
2 inches	5,770 .00
3 inches	7,525 .00
4 inches	15,500 .00
6 inches	30,100 .00
8 inches	46,660 .00
10 inches	72,900 .00
12 inches	105,000 .00

- E. In the event the city incurs extraordinary or additional facilities costs beyond those normally and customarily required to provide sewerage service to the customer (e.g., oversized sewer mains, lift stations, additional treatment capacity, etc.), a tap-on surcharge shall be added to the minimum sewer connection charge and local facilities charge set forth hereinabove. The city engineer and city council shall determine the appropriate amount of the tap-on surcharge to be charged the customer based upon: 1) the total amount of extraordinary or additional costs incurred by the city, and 2) an allocation of the extraordinary or additional city costs to each benefited customer property. The determination of the tap-on surcharge shall be recorded with the recorder of deeds of DuPage County and shall identify the customer properties subject to the tap-on surcharge and the amount of the tap-on surcharge applicable to each such property.
- F. The aforesaid sanitary sewer connection fees and charges and sanitary sewer services tap-on surcharges are hereby adopted by the city pursuant to, and in the exercise of, its home rule authority. (Ord. 2870, 8-4-2014)

ARTICLE D. SEWER REGULATIONS

7-4D-1: APPLICABILITY:

Article B, this article and article E of this chapter apply to all water and sewer facilities located within the city except as hereinafter provided. (Ord. 503, 4-21-1980, eff. 5-1-1980)

7-4D-2: DEFINITIONS:

Unless the context specifically indicates otherwise, the meanings of the terms used in this article shall be as follows:

BOD (Denoting Biochemical Oxygen Demand): The quantity of oxygen utilized in biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees Celsius (20°C), expressed in milligrams per liter.

BUILDING DRAIN: That part of the lowest piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer or other approved point of discharge, beginning five feet (5') (1.5 meters) outside the inner face of the building wall.

BUILDING SEWER: The extension from the building drain to the public sewer or other place of disposal.

EFFLUENT CRITERIA: Are defined in any applicable NPDES permit.

FLOATABLE OIL: Oil, fat or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.

GARBAGE: Solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

INDUSTRIAL WASTE: Any solid, liquid or gaseous substance discharged, permitted to flow or escaping from any industrial, manufacturing, commercial or business establishment or process or from the development, recovery or processing of any natural resource as distinct from sanitary sewage.

MILLIGRAMS PER LITER: A unit of the concentration of water or wastewater constituent. It is 0.001 g of the constituent in 1,000 ml of water. It has replaced the unit formerly used commonly, parts per million, to which it is approximately equivalent, in reporting the results of water and wastewater analysis.

NATURAL OUTLET: Any outlet into a watercourse, pond, ditch, lake or other body of surface or groundwater.

pH: The logarithm (base 10) of the reciprocal of the hydrogen-ion concentration expressed by one of the procedures outlined in "Standard Methods".

ppm: Parts per million by weight.

PERSON: Any and all persons, natural or artificial, including any individual, firm, company, municipal or private corporation, association, society, institution, enterprise, governmental agency or other entity.

POPULATION EQUIVALENT: A term used to evaluate the impact of industrial or other waste on a treatment works or stream. One population equivalent is one hundred (100) gallons of sewage per day, containing 0.17 pounds of BOD and 0.22 pounds of suspended solids.

PRETREATMENT: The treatment of wastewaters from sources before introduction into the sewerage works.

PROPERLY SHREDDED GARBAGE: The wastes from the preparation, cooking and dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch ($\frac{1}{2}$ " (1.27 centimeters) in any dimension.

PUBLIC SEWER: A sewer provided by or subject to the jurisdiction of the City. It shall also include sewers within or outside the City boundaries that serve one or more persons and ultimately discharge into the City sewers, even though those sewers may not have been constructed with City of Naperville funds.

SANITARY SEWER: A sewer that conveys sewage or industrial wastes or a combination of both and into which storm, surface and groundwaters or unpolluted industrial wastes are not intentionally admitted.

SEWAGE: Used interchangeably with "wastewater".

SEWER: A pipe or conduit for conveying sewage or any other waste liquids, including storm, surface and groundwater drainage.

SEWERAGE WORKS: The system of sewers and appurtenances for the collection, transportation, pumping and treatment of wastewater and discharge of effluent.

SLUG: Any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty four (24) hour concentration or flows during normal operation.

STANDARD METHODS: The examination and analytical procedures set forth in the most recent edition of "Standard Methods for the Examination of Water and Wastewater" published jointly by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation.

STORM SEWER: A sewer that carries storm, surface and groundwater drainage but excludes sewage and industrial wastes other than unpolluted cooling water.

STORMWATER RUNOFF: That portion of the precipitation that is drained into the sewers.

SUSPENDED SOLIDS: Solids that either float on the surface of, or are in suspension in, water, sewage or industrial waste, and which are removable by a laboratory filtration device. Quantitative determination of suspended solids shall be made in accordance with procedures set forth in "Standard Methods".

UNPOLLUTED WATER: Water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

WASTEWATER: The spent water of a wastewater service customer of the City. It may be a combination of

the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with any groundwater, surface water and storm water that may be present.

WASTEWATER FACILITIES: Synonymous with "sewerage works".

WASTEWATER TREATMENT WORKS: An arrangement of devices and structures for treating wastewater, industrial wastes and sludge. Sometimes used as synonymous with "waste treatment plant" or "pollution control plant".

WATER QUALITY STANDARDS: Defined in the Water Pollution Regulations of Illinois.

WATERCOURSE: A channel in which a flow of water occurs, either continuously or intermittently.

7-4D-3: PERMITS:

A. Permit Required: No unauthorized personnel shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City.

B. Two Classes of Permits: There shall be two (2) classes of building sewer permits:

1. For residential and commercial service, and
2. For service to establishments producing industrial wastes.

In either case, the owner or his agent shall make application on a form furnished by the City. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Director of Public Works. Connection and inspection fees as established by this Chapter shall be paid to the City at the time the application is filed. All nonresidential applicants shall, as a condition of permit authorization, provide information describing its wastewater constituents, characteristics and type of activity. No excavations or construction of sewer lines shall occur unless a permit has been previously issued therefor.

C. Issuance of Permit Conditioned Upon Sufficient Capacity: A building sewer permit will only be issued and a sewer connection shall only be allowed if it can be demonstrated that the downstream sewerage facilities, including sewers, pump stations and wastewater treatment facilities, have sufficient reserve capacity to adequately and efficiently handle the additional anticipated waste load.

7-4D-4: EXPENSES BORNE BY OWNER:

All costs and expenses incident to the installation and connection of the building sewer shall be borne by the

owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

7-4D-5: SEPARATE SEWERS:

A separate and independent building sewer shall be provided for every building.

7-4D-6: CONFORMANCE TO CODE:

The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the Building and Plumbing Codes or other applicable rules and regulations of the City. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American society of testing materials shall be complied with. Water pollution control federal manual of practice no. 9 and standard specifications for water and sewer main construction in Illinois, 1973 edition, shall apply, three (3) copies of each being on file in the office of the city clerk, and which are hereby adopted by reference. (Ord. 503, 4-21-1980, eff. 5-1-1980)

7-4D-7: SEWER ELEVATION:

All buildings shall be served by overhead sewer connections. (Ord. 761, 5-20-1985)

7-4D-8: CONNECTIONS OF SURFACE RUNOFF WATER:

No person(s) shall make connection of roof downspouts, exterior foundation drains, areaway drains or other sources of surface runoff or ground water to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer. (Ord. 503, 4-21-1980, eff. 5-1-1980)

7-4D-9: CONNECTION TO PUBLIC SEWER:

A. Conformance With Codes: The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing codes, other applicable rules and regulations of the city and the procedures set forth in appropriate specifications of the American society of testing materials, water pollution control federation manual of practice no. 9, and standard specifications for water and sewer

main construction in Illinois. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the city before installation.

- B. Supervision: The applicant for the building sewer permit shall notify the city when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the city or its representative. (Ord. 503, 4-21-1980, eff. 5-1-1980)

7-4D-10: EXCAVATIONS AND RESTORATION:

All excavations for building sewer installations shall be adequately guarded with barricades and lights so as to protect the public hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city. If such work does not conform to the building code or this chapter, the city may complete the work and bill the occupant or owner of the premises, and the amount thereof shall be a lien against the premises to the same extent and with the same effect as delinquent water and sewer charges. (Ord. 503, 4-21-1980, eff. 5-1-1980)

7-4D-11: DISCHARGES INTO STORM SEWERS:

- A. Storm Water To Be Discharged Into Storm Sewers: Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the city. Industrial cooling water or unpolluted process waters may be discharged on approval of the city, to a storm sewer or natural outlet. (Ord. 503, 4-21-1980, eff. 5-1-1980)
- B. Discharge Of Sanitary And Industrial Wastewater Into Storm Sewers: It shall be unlawful for any person to discharge sanitary and industrial wastewater into the storm sewers constructed as part of an Illinois Route 56 or Illinois Route 59 improvement; nor shall there be any discharge of wastewater into any storm sewer in the city. (Ord. 1373, 3-6-1995)

Any person violating this subsection shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) for each offense, and a separate offense shall be deemed committed for each and every day during which a violation continues or exists. (Ord. 406, 12-4-1978)

7-4D-12: CERTAIN DISCHARGES INTO SANITARY SEWERS PROHIBITED:

- A. Storm Water: No person shall discharge or allow to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process waters to any sanitary sewer.

B. Disposal Unlawful: All disposal by any person into the sewer system is unlawful except those discharges in compliance with federal standards promulgated pursuant to the federal act and more stringent state and local standards.

C. Prohibited Connections: No person shall connect or cause the connection, either directly or indirectly, of any of the following (hereinafter referred to as "storm water connections") to any public sanitary sewer or permit any such existing connection to remain connected:

1. Building storm drains.
2. Driveway drains.
3. Roof downspouts.
4. Exterior foundation drains.
5. Areaway drains.
6. Area drains.
7. Patio drains.
8. Yard drains.
9. Combination drains.
10. Storm sumps.
11. Diverter valves.
12. Sump pump drains or outlet pipes which collect or include the collection of rainwater, storm water or ground water.
13. Any drain, pump, outlet or other structure which admits surface water runoff or ground water.

D. Disconnection Of Prohibited Connections: Any prohibited connection as defined in this section shall be disconnected, not later than one hundred eighty (180) days after notice from the city, by the property owner or agent responsible for maintenance of any structure or property having a connection to a public sanitary sewer. Once disconnected, a prohibited connection shall not be reconnected, and any such reconnection shall be a separate violation immediately subject to the penalties hereinafter provided.

E. Penalties: Any person who violates any provision of this section, upon being found guilty of violation, shall be subject to a fine of two hundred fifty dollars (\$250.00) for the first violation. Any person who fails to correct any violation of this section within thirty (30) days after being found guilty of such violation ("first compliance period") shall be subject to a fine of five hundred dollars (\$500.00). Any person who fails to correct any violation of this section within sixty (60) days after being found guilty of such violation ("second compliance period") shall be subject to a fine of seven hundred fifty dollars (\$750.00). Each day

on which the violation continues beyond the aforesaid second compliance period shall be deemed a separate offense. (Ord. 1981, 5-20-2002)

7-4D-13: CERTAIN DISCHARGE INTO PUBLIC SEWERS PROHIBITED:

No person shall discharge or allow to be discharged any of the following described waters or wastes to any public sewers:

- A. Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.
- B. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance or create any hazard in the receiving waters of the wastewater treatment plant.
- C. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewerage works.
- D. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewerage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, either whole or ground by garbage grinders. (Ord. 503, 4-21-1980, eff. 5-1-1980)

7-4D-14: CERTAIN DISCHARGES PROHIBITED UNLESS APPROVED:

No person shall discharge or allow to be discharged the following described substances, materials, waters or wastes if the director of public works shall determine that such wastes are harmful to either the sewers, wastewater treatment process or equipment of sewerage works; have an adverse affect on the receiving stream; or otherwise endanger life, limb, public property or constitute a nuisance. In making such determination as to the acceptability of these wastes, the director of public works shall give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the wastewater treatment process, capacity of the wastewater treatment plant, degree of treatability of wastes in the wastewater treatment plant and maximum limits established by regulatory agencies. Any such determination may be appealed to the city council by any person affected by such determination. The decision of the city council on such appeal shall be final. The substances prohibited are:

- A. Any liquid or vapor having a temperature higher than one hundred fifty degrees Fahrenheit (150°F) (65°C).
- B. Any waters or wastes containing toxic or poisonous materials; or oils, whether emulsified or not, in excess of one hundred milligrams per liter (100 mg/l) or containing substances which may solidify or become viscous at temperatures between thirty two degrees Fahrenheit (32°F) and one hundred fifty degrees Fahrenheit (150°F) (0 and 65°C).
- C. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths ($\frac{3}{4}$) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the city.
- D. Any waters or wastes containing iron pickling wastes, or concentrated plating solutions whether neutralized or not.
- E. Any waste at any time containing more than the maximum concentration in milligrams per liter of any substance shown in the following table:

Arsenic (total)	0.50
Barium (total)	5.00
Cadmium (total)	0.30
Chromium (total triv.)	3.00
Chromium (total hexav.)	0.60
Copper (total)	2.00
Cyanide	0.50
Iron (total)	5.00
Lead (total)	0.25
Manganese (total)	2.00
Mercury	0.0005
Nickel (total)	2.00
Phenol	0.60
Selenium (total)	2.00
Silver (total)	0.10
Zinc (total)	2.00

- F. Any waters or wastes containing taste or odor producing substances.
- G. Any radioactive wastes or isotopes of such half life or concentration as may exceed limits established by applicable state or federal regulations.
- H. Any waters or wastes having a pH in excess of 9.5.
- I. Materials which exert or cause:
 - 1. Unusual concentrations of inert suspended solids such as, but not limited to, fuller's earth, lime slurries and limit residues or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate);
 - 2. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions);
 - 3. Unusual BOD, chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the wastewater treatment works;
 - 4. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.
- J. Waters or wastes containing substances which are not amendable to treatment or reduction by the wastewater treatment processes employed, or are amendable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of agencies having jurisdiction over discharge to the receiving waters. (Ord. 503, 4-21-1980, eff. 5-1-1980)

7-4D-15: DISCHARGE PRETREATMENT STANDARDS, EPA:

If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in this article, and/or which are in violation of the standards for pretreatment provided in chapter 1, EPA rules and regulations, subchapter D, water programs part 12B __ pretreatment standards, federal register volume 38, no. 215, Thursday, November 8, 1973, and any amendments thereto, and which may have a deleterious effect upon the sewerage works, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the city may:

- A. Reject the wastes;

B. Require pretreatment to an acceptable condition for discharge to the public sewers;

C. Require control over the quantities and rates of discharge; and/or

D. Require payment to cover the added costs of handling and treating such wastes under the provisions of this article.

If the city permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the city and subject to the requirements of all applicable codes, ordinances and laws. (Ord. 503, 4-21-1980, eff. 5-1-1980)

7-4D-16: INTERCEPTORS:

Grease, oil and sand interceptors shall be provided when they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the city and shall be located as to be readily and easily accessible for cleaning and inspection. (Ord. 503, 4-21-1980, eff. 5-1-1980)

7-4D-17: MAINTENANCE:

When preliminary treatment or flow equalizing facilities are provided, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense. (Ord. 503, 4-21-1980, eff. 5-1-1980)

7-4D-18: CONTROL MANHOLES:

Each industry shall be required to install a control manhole and, when required by the city, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the city. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times. (Ord. 503, 4-21-1980, eff. 5-1-1980)

7-4D-19: LABORATORY ANALYSES:

The owner of any property serviced by a building sewer carrying industrial wastes shall provide laboratory measurements, tests and analyses of waters and wastes to illustrate compliance with this article and any special conditions or discharge established by the city or regulatory agencies having jurisdiction over the discharge. The number, type and frequency of laboratory analyses to be performed by the owner shall be as stipulated by the city, but no less than once per year the industry must supply a complete analysis of the constituents of the wastewater discharge to assure that compliance with the federal, state and local standards are being met. The owner shall report the results of measurements and laboratory analyses to the city at such times and in such manner as prescribed by the city. The owner shall bear the expense of all measurements, analyses and reporting required by the city. At such times as deemed necessary, the city reserves the right to take measurements and samples for analysis by an outside laboratory service. (Ord. 503, 4-21-1980, eff. 5-1-1980)

7-4D-20: STANDARDS FOR TESTS, MEASUREMENTS AND ANALYSES:

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater", published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. The particular analyses involved will determine whether a twenty four (24) hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, BOD and suspended solids analyses are obtained from twenty four (24) hour composites of all outfalls, whereas pHs are determined from periodic grab samples. (Ord. 503, 4-21-1980, eff. 5-1-1980)

7-4D-21: SPECIAL AGREEMENTS:

No statement contained in this article shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment, subject to payment therefor, by the industrial concern, provided such payments are in accordance with federal and state guidelines for user charge system and industrial cost recovery system. (Ord. 503, 4-21-1980, eff. 5-1-1980)

7-4D-22: DEPOSIT OF OBJECTIONABLE WASTE PROHIBITED:

It shall be unlawful for any person to place, deposit or permit to be deposited, in any unsanitary manner on public or private property within the city or in any area under the jurisdiction of the city, any human or animal excrement, garbage or other objectionable waste. (Ord. 503, 4-21-1980, eff. 5-1-1980)

7-4D-23: DISCHARGE OF POLLUTED WATERS PROHIBITED:

It shall be unlawful to discharge to any natural outlet within the city or in any area under the jurisdiction of the city, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with the provisions of this chapter. (Ord. 503, 4-21-1980, eff. 5-1-1980)

7-4D-24: MALICIOUS DAMAGE PROHIBITED:

No person shall maliciously, wilfully or negligently break, damage, destroy or tamper with any structure, appurtenance or equipment which is a part of the sewerage works. (Ord. 503, 4-21-1980, eff. 5-1-1980)

7-4D-25: ENTRANCE UPON PROPERTIES:

The director of public works and other duly authorized employees of the city bearing proper credentials and identification, shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this chapter. In the event that the director of public works or other duly authorized employee is refused admittance or is in any way hindered in the making of the inspection, the director of public works or his duly authorized agent may apply to any court of competent jurisdiction for an order commanding the owner or occupant of any premises to permit access for purposes herein described. The director of public works or his representative shall have no authority to inquire into any processes, including metallurgical, chemical, oil refining, ceramic, paper or other industries, beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterway or facilities for waste treatment. (Ord. 1981, 5-20-2002)

7-4D-26: COMPLIANCE WITH SAFETY RULES:

While performing the necessary work on private properties, the director of public works or duly authorized employees of the city, shall observe all safety rules applicable to the premises established by the company. (Ord. 503, 4-21-1980, eff. 5-1-1980)

7-4D-27: DEFECTIVE SEWERS:

Whenever a building sewer or drain is obstructed or otherwise found to be broken or defective so that sewage or drainage escapes into surrounding soils or into adjacent premises, repair or replacement may be ordered by the director of public works. Such repair or replacement shall be at the expense of the owner or person in control of the property concerned. It shall be the responsibility of the property owner to maintain and keep in repair the sewer service line between the collector sewer and the building. The city may, in case

of emergency, repair any sewer service lines, and if this is done, the owner shall be responsible for the cost of such work and the amount thereof shall be a lien against the premises to the same extent and with the same effect as delinquent water and sewer charges. (Ord. 503, 4-21-1980, eff. 5-1-1980)

7-4D-28: OLD SEWERS TO MEET REQUIREMENTS:

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the city, to meet all requirements of this chapter. (Ord. 503, 4-21-1980, eff. 5-1-1980)

7-4D-29: REIMBURSEMENT FOR DISCONNECTION OF DRAINS FROM SANITARY SEWER SYSTEM:

Any property owner or any agent who is responsible for maintenance of any structure or property within the city, which is served by any drain or outlet pipe or other structure, as set forth in this chapter, for which disconnection is required, may be eligible for partial reimbursement for actual out of pocket expenses incurred as a consequence of performing or having performed storm water connection work in accordance with the requirements of this chapter. The reimbursement amount, if any, shall be subject to prior appropriation by the city and further subject to the terms and conditions of the city program, as it may exist from time to time. (Ord. 1981, 5-20-2002)

7-4D-30: CIVIL LIABILITY:

In addition to the penalties set forth in section 1-4-1 of this code, any person who shall damage any portion or component of the sewerage works of the city by violating any provision in this article, or otherwise, shall be civilly liable to the city for such damage. (Ord. 503, 4-21-1980, eff. 5-1-1980)

ARTICLE E. PRIVATE SEWERAGE FACILITIES

7-4E-1: PRIVIES, SEPTIC TANKS, CESSPOOLS PROHIBITED:

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage. (Ord. 503, 4-21-1980, eff. 5-1-1980)

7-4E-2: INSTALLATION OF TOILET FACILITIES REQUIRED:

The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes situated within the city is hereby required at his expense to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer in accordance with the rules and regulations of the county of DuPage, and any septic tanks, cesspools and similar private sewage disposal facilities shall be thereupon abandoned and properly removed or sealed in the manner required by the county of DuPage. (Ord. 1981, 5-20-2002)

7-4E-3: VARIANCES:

Where a public sanitary sewer is not available and a variance from the construction of a sanitary sewer has been granted by the city council, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this chapter. (Ord. 503, 4-21-1980, eff. 5-1-1980)

7-4E-4: CONSTRUCTION PERMITS:

- A. Permit Required: Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the director of public works. The application for such permit shall be made on a form furnished by the said director, which the applicant shall supplement by any plans, specifications and other information as is deemed necessary by the said director. A permit and inspection fee of fifty dollars (\$50.00) shall be paid to the city at the time the application is filed.
- B. Effective Date Of Permit: A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the director of public works. He shall then be allowed to inspect the work at any stage of construction and, in any event, the application for the permit shall notify the said director when the work is ready for final inspection, and before any underground portions are covered. (Ord. 503, 4-21-1980, eff. 5-1-1980)

7-4E-5: COMPLIANCE:

The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the state of Illinois private sewage disposal licensing act and code and with the state of Illinois environmental protection agency¹, and the ordinances of the county in which said system is to be constructed. No septic tank or cesspool shall be permitted to discharge to any natural outlet. (Ord. 503, 4-21-1980, eff. 5-1-1980)

7-4E-6: CONNECTION WHEN PUBLIC SEWER BECOMES AVAILABLE:

(Rep. by Ord. 1981, 5-20-2002)

7-4E-7: MAINTENANCE:

The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, and at no expense to the city. (Ord. 503, 4-21-1980, eff. 5-1-1980)

7-4E-8: ADDITIONAL REQUIREMENTS:

No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the county in which said system is to be constructed. (Ord. 503, 4-21-1980, eff. 5-1-1980)

Chapter 5

CONSTRUCTION OF UTILITY FACILITIES IN THE PUBLIC RIGHTS OF WAY

7-5-1: PURPOSE AND SCOPE:

- A. Purpose: The purpose of this chapter is to establish policies and procedures for constructing facilities on rights of way within the city's jurisdiction, which will provide public benefit consistent with the preservation of the integrity, safe usage, and visual qualities of the city rights of way and the city as a whole.
- B. Facilities Subject To This Chapter: This chapter applies to all facilities on, over, above, along, upon, under, across, or within the public rights of way within the jurisdiction of the city, except as may be otherwise provided in any applicable franchise, license or similar agreement.
- C. Franchises, Licenses, Or Similar Agreements: The city, in its discretion and as limited by law, may require utilities to enter into a franchise, license or similar agreement for the privilege of locating their facilities on, over, above, along, upon, under, across, or within the city rights of way. Utilities that are not required by law to enter into such an agreement may request that the city enter into such an agreement. In such an agreement, the city may provide for terms and conditions inconsistent with this chapter.

D. Effect Of Franchises, Licenses, Or Similar Agreements:

1. **Utilities Other Than Telecommunications Providers:** In the event that a utility other than a telecommunications provider has a franchise, license or similar agreement with the city, such franchise, license or similar agreement shall govern and control during the term of such agreement and any lawful renewal or extension thereof.
2. **Telecommunications Providers:** In the event of any conflict with, or inconsistency between, the provisions of this chapter and the provisions of any franchise, license or similar agreement between the city and any telecommunications provider, the provisions of such franchise, license or similar agreement shall govern and control during the term of such agreement and any lawful renewal or extension thereof.

E. Conflicts With Other Chapters: This chapter supersedes all policies, resolutions, ordinances, or parts thereof adopted prior hereto that are in conflict herewith, to the extent of such conflict.

F. Conflicts With State And Federal Laws: In the event that applicable federal or state laws or regulations conflict with the requirements of this chapter, the utility shall comply with the requirements of this chapter to the maximum extent possible without violating federal or state laws or regulations.

G. Sound Engineering Judgment: The city shall use sound engineering judgment when administering this chapter and may vary the standards, conditions, and requirements expressed in this chapter when the city so determines. Nothing herein shall be construed to limit the ability of the city to regulate its rights of way for the protection of the public health, safety and welfare. (Ord. 2406, 11-5-2007)

7-5-2: DEFINITIONS:

For purposes of this chapter, unless the context clearly requires otherwise, the words and terms listed shall have the meanings ascribed to them in this section. Any term not defined in this section shall have the meaning ascribed to it in 92 Illinois administrative code section 530.30, unless the context clearly requires otherwise.

AASHTO: American Association of State Highway and Transportation Officials.

ANSI: American National Standards Institute.

ASTM: American Society for Testing and Materials.

APPLICANT: A person applying for a permit under this chapter.

BACKFILL: The methods or materials for replacing excavated material in a trench or pit.

BORE OR BORING: To excavate an underground cylindrical cavity for the insertion of a pipe or electrical conductor.

CABLE OPERATOR: That term as defined in 47 USC 522(5).

CABLE SERVICE: That term as defined in 47 USC 522(6).

CABLE SYSTEM: That term as defined in 47 USC 522(7).

CARRIER PIPE: The pipe enclosing the liquid, gas or slurry to be transported.

CASING: A structural protective enclosure for transmittal devices such as carrier pipes, electrical conductors, and fiber optic devices.

CITY: The city of Warrenville.

CITY STANDARDS: Any codes, ordinances or regulations of the city which are applicable to construction of utility facilities in city rights of way.

CLEAR ZONE: The total roadside border area, starting at the edge of the pavement, available for safe use by errant vehicles. This area shall consist of a shoulder, a recoverable slope, a nonrecoverable slope, and a clear run out area. The desired width is dependent upon the traffic volumes and speeds, and on the roadside geometry. Distances are specified in the AASHTO "Roadside Design Guide".

COATING: Protective wrapping or mastic cover applied to buried pipe for protection against external corrosion.

CODE: The codified ordinances of the city of Warrenville.

CONDUCTOR: Wire carrying electrical current.

CONDUIT: A casing or encasement for wires or cables.

CONSTRUCTION OR CONSTRUCT: The installation, repair, maintenance, placement, alteration, enlargement, demolition, modification or abandonment in place of facilities.

COVER: The depth of earth or backfill over buried utility pipe or conductor.

CROSSING FACILITY: A facility that crosses one or more right of way lines of a right of way.

DIRECTOR OF PUBLIC WORKS: The city director of public works or his or her designee.

DISRUPT THE RIGHT OF WAY: Any work that obstructs the right of way or causes a material adverse effect on the use of the right of way for its intended use. Such work may include, without limitation, the following: excavating or other cutting; placement (whether temporary or permanent) of materials, equipment, devices, or structures; damage to vegetation; and compaction or loosening of the soil, and shall not include the parking of vehicles or equipment in a manner that does not materially obstruct the flow of traffic on a highway.

EMERGENCY: Any immediate maintenance to the facility required for the safety of the public using or in the vicinity of the right of way or immediate maintenance required for the health and safety of the general public served by the utility.

ENCASEMENT: Provision of a protective casing.

EQUIPMENT: Materials, tools, implements, supplies, and/or other items used to facilitate construction of facilities.

EXCAVATION: The making of a hole or cavity by removing material or laying bare by digging.

EXTRA HEAVY PIPE: Pipe meeting ASTM standards for this pipe designation.

FACILITY: All structures, devices, objects, and materials (including track and rails, wires, ducts, fiber optic cable, communications and video cables and wires, poles, conduits, grates, covers, pipes, cables, and appurtenances thereto) located on, over, above, along, upon, under, across, or within rights of way under this chapter, except those owned by the city.

FREESTANDING FACILITY: A ground mounted facility that is not a crossing facility, an overhead facility, or a parallel facility, such as an antenna, transformer, pump, equipment enclosure, equipment cabinet, meter station or similar ground mounted appurtenance.

FRONTAGE ROAD: A roadway providing access to land adjacent to the highway where it is precluded by control of access to a highway.

HAZARDOUS MATERIAL: Any substance or material which, due to its quantity, form, concentration, location, or other characteristic, is determined by the director of public works to pose an unreasonable and imminent risk to the life, health or safety of persons or property or to the ecological balance of the environment, including, but not limited to, explosives, radioactive materials, petroleum or petroleum products or gases, poisons, etiology (biological) agents, flammables, corrosives or any substance determined to be hazardous or toxic under any federal or state law, statute or regulation.

HIGHWAY: A right of way used for vehicular traffic, including rural or urban roads or streets, whether classified as arterial, collector, minor or local. Highway includes all highway land and improvements, including roadways, ditches and embankments, bridges, drainage structures, signs, guardrails, protective structures and appurtenances necessary or convenient for vehicle traffic.

HIGHWAY CODE: The Illinois highway code, 605 Illinois Compiled Statutes 5/1-101 et seq., as amended from time to time.

HOLDER: A person or entity that has received authorization to offer or provide cable or video service from the ICC pursuant to the Illinois cable and video competition law, 220 Illinois Compiled Statutes 5/21-401.

IDOT: Illinois department of transportation.

ILCC: Illinois commerce commission.

JULIE: The joint utility locating information for excavators utility notification program.

JACKING: Pushing a pipe horizontally under a roadway by mechanical means with or without boring.

JETTING: Pushing a pipe through the earth using water under pressure to create a cavity ahead of the pipe.

JOINT USE: The use of pole lines, trenches or other facilities by two (2) or more utilities.

MAJOR INTERSECTION: The intersection of two (2) or more arterial highways.

OCCUPANCY: The presence of facilities on, over or under right of way.

OVERHEAD FACILITY: A facility that is mounted on a pole.

PARALLEL FACILITY: A facility that is generally parallel or longitudinal to the centerline of a right of way.

PARKWAY: Any portion of the right of way not improved by street or sidewalk.

PAVEMENT CUT: The removal of an area of pavement for access to a facility or for the construction of a facility.

PERMITTEE: That entity to which a permit has been issued pursuant to sections 7-5-4 and 7-5-5 of this chapter.

PERSON OR ENTITY: Any natural individual, firm, trust, estate, partnership, association, joint stock company, joint adventure, corporation, limited liability company, or a receiver, trustee, guardian or other representative appointed by order of court.

PETROLEUM PRODUCTS PIPELINES: Pipelines carrying crude or refined liquid petroleum products including, but not limited to, gasoline, distillates, propane, butane, or coal slurry.

PRACTICABLE: That which is performable, feasible or possible, rather than that which is simply convenient.

PRESSURE: The internal force acting radially against the walls of a carrier pipe expressed in pounds per square inch gauge (psig).

PROMPT: That which is done within a period of time specified by the city. If no time period is specified, the period shall be thirty (30) days.

PUBLIC ENTITY: A legal entity that constitutes or is part of the government, whether at local, state or federal level.

RESTORATION: The repair of a right of way, highway, roadway, or other area disrupted by the construction of a facility to its original condition.

RIGHT OF WAY: Any street, alley, other land or waterway, dedicated or commonly used for utility purposes, including utility easements in which the city has the right and authority to authorize, regulate or permit the location of facilities other than those of the city. Right of way shall not include any real or personal city property that is not specifically described in the previous two (2) sentences and shall not include city buildings, fixtures, and other structures or improvements, regardless of whether they are situated in the right of way.

ROADWAY: That part of the highway that includes the pavement and shoulders.

SALE OF TELECOMMUNICATIONS AT RETAIL: The transmitting, supplying, or furnishing of telecommunications and all services rendered in connection therewith for a consideration, other than between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries, when the gross charge made by one such corporation to another such corporation is not greater than the gross charge paid to the retailer for their use or consumption and not for sale.

SECURITY FUND: That amount of security required pursuant to section 7-5-10 of this chapter.

SHOULDER: A width of roadway, adjacent to the pavement, providing lateral support to the pavement edge and providing an area for emergency vehicular stops and storage of snow removed from the pavement.

SOUND ENGINEERING JUDGMENT: A decision(s) consistent with generally accepted engineering principles, practices and experience.

TELECOMMUNICATIONS: This term includes, but is not limited to, messages or information transmitted through use of local, toll and wide area telephone service, channel services, telegraph services, teletypewriter service, computer exchange service, private line services, mobile radio services, cellular mobiletelecommunications services, stationary two-way radio, paging service and any other form of mobile or portable one-way or two-way communications, and any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities. "Private line" means a dedicated nontraffic sensitive service for a single customer that entitles the customer to exclusive or priority use of a communications channel, or a group of such channels, from one or more specified locations to one or more other specified locations. "Telecommunications" shall not include value added services in which computer processing applications are used to act on the form, content, code and protocol of the information for purposes other than transmission. "Telecommunications" shall not include the provision of cable services through a cable system as defined in the cable communications act of 1984 (47 USC section 521 and following), as now or hereafter amended, or cable or other programming services subject to an open video system fee payable to the city through an open video system as defined in the rules of the federal communications commission (47 CFR section 76.1500 and following), as now or hereafter amended.

TELECOMMUNICATIONS PROVIDER: Any person who installs, owns, operates or controls facilities in the public right of way used or designed to be used to transmit telecommunications in any form.

TELECOMMUNICATIONS RETAILER: Any person engaged in making sales of telecommunications at retail as defined herein.

TRENCH: A relatively narrow open excavation for the installation of an underground facility.

UTILITY: Any person or entity owning or operating any "facility", as defined in this section.

VENT: A pipe to allow the dissipation into the atmosphere of gases or vapors from an underground casing.

VIDEO SERVICE: That term as defined in section 21-201(v) of the Illinois cable and video competition law of 2007, 220 Illinois Compiled Statutes 21-201(v).

WATER LINES: Pipelines carrying raw or potable water.

WET BORING: Boring using water under pressure at the cutting auger to soften the earth and to provide a sluice for the excavated material. (Ord. 2406, 11-5-2007)

7-5-3: ANNUAL REGISTRATION REQUIRED:

Every utility that occupies right of way within the city shall register on January 1 of each year with the director of public works, providing the utility's name, address and regular business telephone and telecopy numbers,

the name of one or more contact persons who can act on behalf of the utility in connection with emergencies involving the utility's facilities in the right of way and a twenty four (24) hour telephone number for each such person and evidence of insurance as required in section 7-5-8 of this chapter, in the form of a certificate of insurance. (Ord. 2406, 11-5-2007)

7-5-4: PERMIT REQUIRED; APPLICATIONS AND FEES:

- A. Permit Required: No person shall construct (as defined in this chapter) any facility on, over, above, along, upon, under, across, or within any city right of way which: 1) changes the location of the facility, 2) adds a new facility, 3) disrupts the "right of way" (as defined in this chapter), or 4) materially increases the amount of area or space occupied by the facility on, over, above, along, under, across or within the right of way, without first filing an application with the director of public works and obtaining a permit from the city therefor, except as otherwise provided in this chapter. No permit shall be required for installation and maintenance of service connections to customers' premises where there will be no disruption of the right of way.
- B. Permit Application: All applications for permits pursuant to this chapter shall be filed on a form provided by the city and shall be filed in such number of duplicate copies as the city may designate. The applicant may designate those portions of its application materials that it reasonably believes contain proprietary or confidential information as proprietary or confidential by clearly marking each page of such materials accordingly.
- C. Minimum General Application Requirements: The application shall be made by the utility or its duly authorized representative and shall contain, at a minimum, the following:
1. The utility's name and address and telephone and telecopy numbers;
 2. The applicant's name and address, if different than the utility, its telephone and telecopy numbers, e-mail address, and its interest in the work;
 3. The names, addresses and telephone and telecopy numbers and e-mail addresses of all professional consultants, if any, advising the applicant with respect to the application;
 4. A description of the proposed work and the purposes and intent of the facility and the uses to which the facility will be put. The scope and detail of such description shall be appropriate to the nature and character of the work to be performed, as determined by the director of public works, with special emphasis on those matters likely to be affected or impacted by the work proposed;
 5. Evidence that the utility has placed on file with the city:
 - a. A written traffic control plan demonstrating the protective measures and devices that will be employed consistent with the "Illinois Manual On Uniform Traffic Control Devices", to prevent injury or damage to persons or property and to minimize disruptions to efficient pedestrian and vehicular traffic; and

- b. An emergency contingency plan which shall specify the nature of potential emergencies, including, without limitation, construction and hazardous materials emergencies, and the intended response by the applicant. The intended response shall include notification to the city and shall promote protection of the safety and convenience of the public. Compliance with ILCC regulations for emergency contingency plans constitutes compliance with this section unless the city finds that additional information or assurances are needed;
 6. Drawings, plans and specifications showing the work proposed, including the certification of an engineer that such drawings, plans, and specifications comply with applicable codes, rules, and regulations;
 7. Evidence of insurance as required in section 7-5-8 of this chapter;
 8. Evidence of posting of the security fund as required in section 7-5-10 of this chapter;
 9. Any request for a variance from one or more provisions of this chapter (see section 7-5-21 of this chapter); and
 10. Such additional information as may be reasonably required by the city.
- D. Supplemental Application Requirements For Specific Types Of Utilities: In addition to the requirements of subsection C of this section, the permit application shall include the following items as applicable to the specific utility that is the subject of the permit application:
1. In the case of the installation of a new electric, power, communications, telecommunications, cable television service, video service or natural gas distribution system, evidence that any "certificate of public convenience and necessity" or other regulatory authorization that the applicant is required by law to obtain, or that the applicant has elected to obtain, has been issued by the ILCC or other jurisdictional authority;
 2. In the case of natural gas systems, state the proposed pipe size, design, construction class, and operating pressures;
 3. In the case of water lines, indicate that all requirements of the Illinois environmental protection agency, division of public water supplies, have been satisfied;
 4. In the case of sewer line installations, indicate that the land and water pollution requirements of the Illinois environmental protection agency, division of water pollution control and the metropolitan water reclamation district and other local or state entities with jurisdiction, have been satisfied; or
 5. In the case of petroleum products pipelines, state the type or types of petroleum products, pipe size, maximum working pressure, and the design standard to be followed.
- E. Applicant's Duty To Update Information: Throughout the entire permit application review period and the construction period authorized by the permit, any amendments to information contained in a permit application shall be submitted by the utility in writing to the city within thirty (30) days after the change necessitating the amendment.

- F. Application Fees: Unless otherwise provided by franchise, license, or similar agreement, all applications for permits pursuant to this chapter shall be accompanied by a fee in the amount of one hundred dollars (\$100.00). No application fee is required to be paid by any telecommunications retailer that is paying to the city the simplified municipal telecommunications tax or the optional state telecommunications infrastructure maintenance fee pursuant to the telecommunications municipal infrastructure maintenance fee act, or by any electricity utility that is paying the municipal electricity infrastructure maintenance fee pursuant to the electricity infrastructure maintenance fee act. (Ord. 2406, 11-5-2007)

7-5-5: ACTION ON PERMIT APPLICATIONS:

- A. City Review Of Permit Applications: Completed permit applications, containing all required documentation, shall be examined by the director of public works within a reasonable time after filing. If the application does not conform to the requirements of all applicable ordinances, codes, laws, rules, and regulations, the director of public works shall reject such application in writing, stating the reasons therefor. If the director of public works is satisfied that the proposed work conforms to the requirements of this chapter and all applicable ordinances, codes, laws, rules, and regulations, the director of public works shall issue a permit therefor as soon as practicable. In all instances, it shall be the duty of the applicant to demonstrate, to the satisfaction of the director of public works, that the construction proposed under the application shall be in full compliance with the requirements of this chapter.
- B. Additional City Review Of Applications Of Telecommunications Retailers:
1. Pursuant to section 4 of the telephone company act, 220 Illinois Compiled Statutes 65/4, a telecommunications retailers shall notify the city that it intends to commence work governed by this chapter for facilities for the provision of telecommunications services. Such notice shall consist of plans, specifications, and other documentation sufficient to demonstrate the purpose and intent of the facilities and shall be provided by the telecommunications retailer to the city not less than ten (10) days prior to the commencement of work requiring no excavation and not less than thirty (30) days prior to the commencement of work requiring excavation. The director of public works shall specify the portion of the right of way upon which the facility may be placed, used and constructed, and subject to the variance procedure if applicable.
 2. Except in cases where a variance is required, in the event that the director of public works fails to provide such specification of location to the telecommunications retailer within either: a) ten (10) days after service of notice to the city by the telecommunications retailer in the case of work not involving excavation for new construction or b) twenty five (25) days after service of notice by the telecommunications retailer in the case of work involving excavation for new construction, the telecommunications retailer may commence work without obtaining a permit under this chapter.
 3. Upon the provision of such specification by the city, where a permit is required for work pursuant to section 7-5-4 of this chapter, the telecommunications retailer shall submit to the city an application for a permit and any and all plans, specifications and documentation available regarding the facility to be constructed. Such application shall be subject to the requirements of subsection A of this section.

- C. Additional City Review Of Applications Of Holders Of State Authorization Under The Cable And Video Competition Law Of 2007: Applications by a utility that is a holder of a state issued authorization under the cable and video competition law of 2007 shall be deemed granted forty five (45) days after submission to the city, unless otherwise acted upon by the city, provided the holder has complied with applicable city codes, ordinances and regulations. (Ord. 2406, 11-5-2007)

7-5-6: EFFECT OF PERMIT:

- A. Authority Granted, No Property Right Or Other Interest Created: A permit from the city authorizes a permittee to undertake only certain activities in accordance with this chapter on city rights of way to the extent of the city's property rights therein. The permit does not create a property right or grant authority to the permittee to impinge upon the rights of others who may have an interest in the public rights of way, including, without limitation, such rights as may exist by virtue of 605 Illinois Compiled Statutes 5/9-113 (the Illinois highway code).
- B. Duration: No permit under this chapter shall be valid for a period longer than six (6) months unless construction is actually begun within that period and is thereafter diligently pursued to completion.
- C. Preconstruction Meeting Required: No construction shall begin pursuant to a permit issued under this chapter prior to attendance by the permittee and all major contractors and subcontractors who will perform any work under the permit at a preconstruction meeting. The preconstruction meeting shall be held at a date, time and place designated by the city, with such city representatives in attendance as the city deems necessary. The meeting shall be for the purpose of reviewing the work under the permit, and reviewing special considerations necessary in the areas where work will occur, including, without limitation, presence or absence of other utility facilities in the area and their locations, procedures to avoid disruption of other utilities, use of rights of way by the public during construction, and access and egress by adjacent property owners.
- D. Compliance With All Laws Required: The issuance of a permit by the city does not excuse the permittee from complying with other requirements of the city and all applicable statutes, laws, ordinances, rules, and regulations. (Ord. 2406, 11-5-2007)

7-5-7: REVISED PERMIT DRAWINGS:

In the event the actual locations of any facilities deviate in any material respect from the locations identified in the plans, drawings and specifications submitted with the permit application, the permittee shall submit a revised set of drawings or plans to the city within ninety (90) days after the completion of the permitted work. The revised drawings or plans shall specifically identify where the locations of the actual facilities deviate from the locations approved in the permit. If any deviation from the permit also deviates from the

requirements of this chapter, it shall be treated as a request for variance in accordance with section 7-5-21 of this chapter. If the city denies the request for a variance, then the permittee shall either remove the facility from the right of way or modify the facility so that it conforms to the permit and submit revised drawings or plans therefor. (Ord. 2406, 11-5-2007)

7-5-8: INSURANCE:

- A. Required Coverages And Limits: Unless otherwise provided by franchise, license, or similar agreement, each utility occupying right of way or constructing any facility in the right of way shall secure and maintain the following liability insurance policies insuring the utility as named insured and naming the city and its elected and appointed officers, officials, agents, and employees as additional noncontributory insureds on the policies listed in subsections A1 and A2 of this section. The utility's insurance shall be primary, and any city policies of insurance shall be deemed secondary.
1. Commercial general liability insurance, including premises-operations, explosion, collapse, and underground hazard (commonly referred to as "X", "C", and "U" coverages) and products-completed operations coverage with limits not less than:
 - a. Five million dollars (\$5,000,000.00) for bodily injury or death to each person;
 - b. Five million dollars (\$5,000,000.00) for property damage resulting from any one accident; and
 - c. Five million dollars (\$5,000,000.00) for all other types of liability;
 2. Five million dollars (\$5,000,000.00) for environmental liability;
 3. Automobile liability for owned, nonowned and hired vehicles with a combined single limit of one million dollars (\$1,000,000.00) for personal injury and property damage for each accident;
 4. Workers' compensation with statutory limits; and
 5. Employer's liability insurance with limits of not less than one million dollars (\$1,000,000.00) per employee and per accident.
- B. Excess Or Umbrella Policies: The coverages required by this section may be in any combination of primary, excess, and umbrella policies. Any excess or umbrella policy must provide excess coverage over underlying insurance on a following form basis such that when any loss covered by the primary policy exceeds the limits under the primary policy, the excess or umbrella policy becomes effective to cover such loss.
- C. Copies Required: The utility shall provide copies of any of the policies required by this section to the city within ten (10) days following receipt of a written request therefor from the city.

- D. Maintenance And Renewal Of Required Coverages: The insurance policies required by this section shall contain the following endorsement:

It is hereby understood and agreed that this policy may not be canceled nor the intention not to renew be stated until thirty (30) days after receipt by the City, by registered mail or certified mail, return receipt requested, of a written notice addressed to the City Administrator of such intent to cancel or not to renew.

Within ten (10) days after receipt by the city of said notice, and in no event later than ten (10) days prior to said cancellation, the utility shall obtain and furnish to the city evidence of replacement insurance policies meeting the requirements of this section.

- E. Self-Insurance: A utility may self-insure all or a portion of the insurance coverage and limit requirements required by subsection A of this section. A utility that self-insures is not required, to the extent of such self-insurance, to comply with the requirement for the naming of additional insureds under subsection A of this section or the requirements of subsections B, C and D of this section. A utility that elects to self-insure shall provide to the city evidence sufficient to demonstrate its financial ability to self-insure the insurance coverage and limit requirements required under subsection A of this section, such as evidence that the utility is a "private self-insurer" under the workers' compensation act. Self-insurance shall be primary, and any city policies of insurance shall be deemed secondary.
- F. Effect Of Insurance And Self-Insurance On Utility's Liability: The legal liability of the utility to the city and any person for any of the matters that are the subject of the insurance policies or self-insurance required by this section shall not be limited by such insurance policies or self-insurance or by the recovery of any amounts thereunder.
- G. Insurance Companies: All insurance provided pursuant to this section shall be effected under valid and enforceable policies, issued by insurers legally able to conduct business with the licensee in the state of Illinois. All insurance carriers and surplus line carriers shall be rated "A-" or better and of a class size "X" or higher by A.M. Best Company. (Ord. 2406, 11-5-2007)

7-5-9: INDEMNIFICATION:

By occupying or constructing facilities in the right of way, a utility shall be deemed to agree to defend, indemnify and hold the city and its elected and appointed officials and officers, employees, agents and representatives harmless from and against any and all injuries, claims, demands, judgments, damages, losses and expenses, including reasonable attorney fees and costs of suit or defense, arising out of, resulting from or alleged to arise out of or result from the negligent, careless or wrongful acts, omissions, failures to act or misconduct of the utility or its affiliates, officers, employees, agents, contractors or subcontractors in the construction of facilities or occupancy of the rights of way, and in providing or offering service over the facilities, whether such acts or omissions are authorized, allowed or prohibited by this chapter or by a franchise, license, or similar agreement; provided, however, that the utility's indemnity obligations hereunder shall not apply to any injuries, claims, demands, judgments, damages, losses or expenses arising out of or resulting from the sole negligence, misconduct or breach of this chapter by the city, its officials, officers, employees, agents or representatives. (Ord. 2406, 11-5-2007)

7-5-10: SECURITY:

- A. Purpose: The permittee shall establish a security fund in a form and in an amount as set forth in this section. The security fund shall be continuously maintained in accordance with this section at the permittee's sole cost and expense until the completion of the work authorized under the permit. The security fund shall serve as security for:
1. The faithful performance by the permittee of all the requirements of this chapter;
 2. Any expenditure, damage, or loss incurred by the city occasioned by the permittee's failure to comply with any codes, rules, regulations, orders, permits and other directives of the city issued pursuant to this chapter; and
 3. The payment by permittee of all liens and all damages, claims, costs, or expenses that the city may pay or incur by reason of any action or nonperformance by permittee in violation of this chapter including, without limitation, any damage to public property or restoration work the permittee is required by this chapter to perform that the city must perform itself or have completed as a consequence solely of the permittee's failure to perform or complete, and all other payments due the city from the permittee pursuant to this chapter or any other applicable law.
- B. Form: The permittee shall provide the security fund to the city in the form, at the permittee's election, of cash, a surety bond in a form acceptable to the city, or an unconditional letter of credit in a form acceptable to the city. Any surety bond or letter of credit provided pursuant to this subsection shall, at a minimum:
1. Provide that it will not be canceled without prior notice to the city and the permittee;
 2. Not require the consent of the permittee prior to the collection by the city of any amounts covered by it; and
 3. Shall provide a location convenient to the city and within the state of Illinois at which it can be drawn.
- C. Amount: The dollar amount of the security fund shall be sufficient to provide for the reasonably estimated cost to restore the right of way to at least as good a condition as that existing prior to the construction under the permit, as determined by the director of public works, and may also include reasonable, directly related costs that the city estimates are likely to be incurred if the permittee fails to perform such restoration. Where the construction of facilities proposed under the permit will be performed in phases in multiple locations in the city, with each phase consisting of construction of facilities in one location or a related group of locations, and where construction in another phase will not be undertaken prior to substantial completion of restoration in the previous phase or phases, the director of public works may, in the exercise of sound discretion, allow the permittee to post a single amount of security which shall be applicable to each phase of the construction under the permit. The amount of the security fund for phased construction shall be equal to the greatest amount that would have been required under the provisions of this subsection for any single phase.

D. Withdrawals From Cash Security Funds: The city, upon fourteen (14) days' advance written notice clearly stating the reason for, and its intention to exercise withdrawal rights under this subsection, may withdraw an amount from the security fund if the fund is a cash security fund, provided that the permittee has not reimbursed the city for such amount within the fourteen (14) day notice period. Withdrawals may be made if the permittee:

1. Fails to make any payment required to be made by the permittee hereunder;
2. Fails to pay any liens relating to the facilities that are due and unpaid;
3. Fails to reimburse the city for any damages, claims, costs or expenses which the city has been compelled to pay or incur by reason of any action or nonperformance by the permittee; or
4. Fails to comply with any provision of this chapter that the city determines can be remedied by an expenditure of an amount in the security fund.

E. Replenishment Of Cash Security Funds: Within fourteen (14) days after receipt of written notice from the city that any amount has been withdrawn from the cash security fund, the permittee shall restore the cash security fund to the amount specified in subsection C of this section.

F. Interest On Cash Security Funds: The permittee may request that any and all interest accrued on the amount in the cash security fund be returned to the permittee by the city, upon written request for said withdrawal to the city, provided that any such withdrawal does not reduce the cash security fund below the minimum balance required in subsection C of this section.

G. Closing And Return Of Cash Security Fund: Upon completion of the work authorized under the permit, the permittee shall be entitled to the return of the cash security fund, or such portion thereof as remains on deposit, within a reasonable time after account is taken for all offsets necessary to compensate the city for failure by the permittee to comply with any provisions of this chapter or other applicable law. In the event of any revocation of the permit, the cash security fund, and any and all accrued interest therein, shall become the property of the city to the extent necessary to cover any reasonable costs, loss or damage incurred by the city as a result of said revocation, provided that any amounts in excess of said costs, loss or damage shall be refunded to the permittee.

H. Other Security Funds: Withdrawals, replenishment, renewal and closing of letter of credit or surety bond security funds shall be governed by the terms of the letter of credit or surety bond.

I. Rights Not Limited: The rights reserved to the city with respect to the security fund are in addition to all other rights of the city, whether reserved by this chapter or otherwise authorized by law, and no action, proceeding or exercise of right with respect to said security fund shall affect any other right the city may have. Notwithstanding the foregoing, the city shall not be entitled to a double monetary recovery with respect to any of its rights which may be infringed or otherwise violated. (Ord. 2406, 11-5-2007)

7-5-11: PERMIT SUSPENSION AND REVOCATION:

- A. **City Right To Revoke Permit:** The city may revoke or suspend a permit issued pursuant to this chapter for one or more of the following reasons:
1. Fraudulent, false, misrepresenting, or materially incomplete statements in the permit application;
 2. Noncompliance with this chapter;
 3. Permittee's physical presence or presence of permittee's facilities on, over, above, along, upon, under, across, or within the public rights of way presents a direct or imminent threat to the public health, safety, or welfare; or
 4. Permittee's failure to construct the facilities substantially in accordance with the permit and approved plans.
- B. **Notice Of Revocation Or Suspension:** The city shall send written notice of its intent to revoke or suspend a permit issued pursuant to this chapter stating the reason or reasons for the revocation or suspension and the alternatives available to permittee under this section.
- C. **Permittee Alternatives Upon Receipt Of Notice Of Revocation Or Suspension:** Upon receipt of a written notice of revocation or suspension from the city, the permittee shall have the following options:
1. Immediately provide the city with evidence that no cause exists for the revocation or suspension;
 2. Immediately correct, to the satisfaction of the city, the deficiencies stated in the written notice, providing written proof of such correction to the city within five (5) working days after receipt of the written notice of revocation; or
 3. Immediately remove the facilities located on, over, above, along, upon, under, across, or within the public rights of way and restore the rights of way to the satisfaction of the city providing written proof of such removal to the city within ten (10) days after receipt of the written notice of revocation.
- The city may, in its discretion, for good cause shown, extend the time periods provided in this subsection.
- D. **Stop Work Order:** In addition to the issuance of a notice of revocation or suspension, the city may issue a stop work order immediately upon discovery of any of the reasons for revocation set forth within subsection A of this section.
- E. **Failure Or Refusal Of The Permittee To Comply:** If the permittee fails to comply with the provisions of subsection C of this section, the city or a contractor designated by the city may, at the option of the city:
- 1) correct the deficiencies;
 - 2) upon not less than twenty (20) days' notice to the permittee, remove the subject facilities or equipment; or
 - 3) after not less than thirty (30) days' notice to the permittee of failure to

cure the noncompliance, deem them abandoned and property of the city. The permittee shall be liable in all events to the city for all costs of correction, removal or abandonment. (Ord. 2406, 11-5-2007)

7-5-12: CHANGE OF OWNERSHIP OR OWNER'S IDENTITY OR LEGAL STATUS:

- A. Notification Of Change: A utility shall notify the city no less than thirty (30) days prior to the transfer of ownership of any facility in the right of way or change in identity of the utility. The new owner of the utility or the facility shall have all the obligations and privileges enjoyed by the former owner under the permit, if any, and all applicable laws, ordinances, rules and regulations, including this chapter, with respect to the work and facilities in the right of way.
- B. Amended Permit: A new owner shall request that any current permit be amended to show current ownership. If the new owner fails to have a new or amended permit issued in its name, the new owner shall be presumed to have accepted, and agreed to be bound by, the terms and conditions of the permit if the new owner uses the facility or allows it to remain on the city's right of way.
- C. Insurance And Bonding: All required insurance coverage or bonding must be changed to reflect the name of the new owner upon transfer. (Ord. 2406, 11-5-2007)

7-5-13: GENERAL CONSTRUCTION STANDARDS:

- A. Standards And Principles: All construction in the right of way shall be consistent with applicable ordinances, codes, laws, rules and regulations, and commonly recognized and accepted traffic control and construction principles, sound engineering judgment and, where applicable, the principles and standards set forth in the following IDOT publications, as amended from time to time:
 - 1. "Standard Specifications For Road And Bridge Construction";
 - 2. "Supplemental Specifications And Recurring Special Provisions";
 - 3. "Highway Design Manual";
 - 4. "Highway Standards Manual";
 - 5. "Standard Specifications For Traffic Control Items";
 - 6. "Illinois Manual On Uniform Traffic Control Devices" (92 Ill. adm. code section 545);
 - 7. "Flagger's Handbook"; and
 - 8. "Work Site Protection Manual For Daylight Maintenance Operations".

- B. City Standards: In addition, all applicable "city standards", as defined in this chapter, shall also apply to construction in the rights of way.
- C. Interpretation Of City Standards And Principles: If a discrepancy exists between or among differing principles and standards required by this chapter, the director of public works shall determine, in the exercise of sound engineering judgment, which principles apply and such decision shall be final. If requested, the director of public works shall state which standard or principle will apply to the construction, maintenance, or operation of a facility in the future. (Ord. 2406, 11-5-2007)

7-5-14: TRAFFIC CONTROL:

- A. Minimum Requirements: The city's minimum requirements for traffic protection are contained in IDOT's "Illinois Manual On Uniform Traffic Control Devices" and this code.
- B. Warning Signs, Protective Devices, And Flaggers: The utility is responsible for providing and installing warning signs, protective devices and flaggers, when necessary, meeting all applicable federal, state, and local requirements for protection of the public and the utility's workers when performing any work on the public rights of way.
- C. Interference With Traffic: All work shall be phased so that there is minimum interference with pedestrian and vehicular traffic.
- D. Notice When Access Is Blocked: At least forty eight (48) hours prior to beginning work that will partially or completely block access to any residence, business or institution, the utility shall notify the resident, business or institution of the approximate beginning time and duration of such work; provided, however, that in cases involving emergency repairs pursuant to section 7-5-20 of this chapter, the utility shall provide such notice as is practicable under the circumstances.
- E. Compliance: The utility shall take immediate action to correct any deficiencies in traffic protection requirements that are brought to the utility's attention by the city. (Ord. 2406, 11-5-2007)

7-5-15: LOCATION OF FACILITIES:

A. General Requirements: In addition to location requirements applicable to specific types of utility facilities, all utility facilities, regardless of type, shall be subject to the general location requirements of this subsection:

1. No Interference With City Facilities: No utility facilities shall be placed in any location if the director of public works determines that the proposed location will require the relocation or displacement of any of the city's utility facilities or will otherwise interfere with the operation or maintenance of any of the city's utility facilities.
2. Minimum Interference And Impact: The proposed location shall cause only the minimum possible interference with the use of the right of way and shall cause only the minimum possible impact upon, and interference with the rights and reasonable convenience of property owners who adjoin said right of way.
3. No Interference With Travel: No utility facility shall be placed in any location that interferes with the usual travel on such right of way.
4. No Limitations On Visibility: No utility facility shall be placed in any location so as to limit visibility of or by users of the right of way.
5. Size Of Utility Facilities: The proposed installation shall use the smallest suitable vaults, boxes, equipment enclosures, power pedestals, and/or cabinets then in use by the facility owner, regardless of location, for the particular application.

B. Parallel Facilities Located Within Highways:

1. Overhead Parallel Facilities: An overhead parallel facility may be located within the right of way lines of a highway only if:
 - a. Lines are located as near as practicable to the right of way line and as nearly parallel to the right of way line as reasonable pole alignment will permit;
 - b. Where pavement is curbed, poles are as remote as practicable from the curb with a minimum distance of two feet (2') (0.6 m) behind the face of the curb, where available;
 - c. Where pavement is uncurbed, poles are as remote from pavement edge as practicable with minimum distance of four feet (4') (1.2 m) outside the outer shoulder line of the roadway and are not within the clear zone;
 - d. No pole is located in the ditch line of a highway; and
 - e. Any ground mounted appurtenance is located within one foot (1') (0.3 m) of the right of way line or as near as possible to the right of way line.
2. Underground Parallel Facilities: An underground parallel facility may be located within the right of way lines of a highway only if:
 - a. The facility is located as near the right of way line as practicable and not more than eight feet (8') (2.4 m) from and parallel to the right of way line;

- b. A new facility may be located under the paved portion of a highway only if other locations are impracticable or inconsistent with sound engineering judgment (e.g., a new cable may be installed in existing conduit without disrupting the pavement); and
- c. In the case of an underground power or communications line, the facility shall be located as near the right of way line as practicable and not more than five feet (5') (1.5 m) from the right of way line and any above grounded appurtenance shall be located within one foot (1') (0.3 m) of the right of way line or as near as practicable.

C. Facilities Crossing Highways:

- 1. No Future Disruption: The construction and design of crossing facilities installed between the ditch lines or curb lines of city highways may require the incorporation of materials and protections (such as encasement or additional cover) to avoid settlement or future repairs to the roadbed resulting from the installation of such crossing facilities.
- 2. Culverts Or Drainage Facilities: Crossing facilities shall not be located in culverts or drainage facilities.
- 3. Ninety Degree Crossing Required: Crossing facilities shall cross at or as near to a ninety degree (90°) angle to the centerline as practicable.
- 4. Overhead Power Or Communication Facility: If a variance has been granted, an overhead power or communication facility may cross a highway only if:
 - a. It has a minimum vertical line clearance as required by ICC's rules entitled "construction of electric power and communication lines" (83 Ill. adm. code 305);
 - b. Poles are located within one foot (1') (0.3 m) of the right of way line of the highway and outside of the clear zone; and
 - c. Overhead crossings at major intersections are avoided.
- 5. Underground Power Or Communication Facility: An underground power or communication facility may cross a highway only if:
 - a. The design materials and construction methods will provide maximum maintenance free service life; and
 - b. Capacity for the utility's foreseeable future expansion needs is provided in the initial installation.
- 6. Markers: The city may require the utility to provide a marker at each right of way line where an underground facility other than a power or communication facility crosses a highway. Each marker shall identify the type of facility, the utility, and an emergency phone number. Markers may also be eliminated as provided in current federal regulations (49 CFR section 192.707 (1989)).

D. Facilities To Be Located Within Particular Rights Of Way: The city may require that facilities be located within particular rights of way that are not highways, rather than within particular highways.

E. Freestanding Facilities:

1. Immediately upon filing a permit application which includes a freestanding facility, the utility shall meet with the director of public works and schedule an on site review. In accordance with the standards and purposes of this chapter, the city may restrict the location and size of any freestanding facility located within a right of way, as appropriate to mitigate the impact upon the right of way and adjoining property.
2. The city may require any freestanding facility located within a right of way to be screened from view.

F. Facilities Installed Aboveground: Aboveground facilities, including freestanding facilities, may be installed only if:

1. No other existing facilities in the area are located underground;
2. New underground installation is not technically feasible; and
3. The proposed installation will be made at a location and will employ suitable design and materials to provide the greatest protection of aesthetic qualities of the area being traversed without adversely affecting safety. Suitable designs include, but are not limited to, self-supporting armless, single pole construction with vertical configuration of conductors and cable. Existing utility poles and light standards shall be used wherever practicable; the installation of additional utility poles is strongly discouraged.

G. Facility Attachments To Bridges Or Roadway Structures:

1. Facilities may be installed as attachments to bridges or roadway structures only where the utility has demonstrated that all other means of accommodating the facility are not practicable. Other means shall include, but are not limited to, underground, underwater, independent poles, cable supports and tower supports, all of which are completely separated from the bridge or roadway structure. Facilities transmitting commodities that are volatile, flammable, corrosive, or energized, especially those under significant pressure or potential, present high degrees of risk and such installations are not permitted.
2. A utility shall include in its request to accommodate a facility installation on a bridge or roadway structure supporting data demonstrating the impracticability of alternate routing. Approval or disapproval of an application for facility attachment to a bridge or roadway structure will be based upon the following considerations:
 - a. The type, volume, pressure or voltage of the commodity to be transmitted and an evaluation of the resulting risk to persons and property in the event of damage to or failure of the facility;
 - b. The type, length, value, and relative importance of the highway structure in the transportation system;
 - c. The alternative routings available to the utility and their comparative practicability;
 - d. The proposed method of attachment;
 - e. The ability of the structure to bear the increased load of the proposed facility;
 - f. The degree of interference with bridge maintenance and painting;
 - g. The effect on the visual quality of the structure; and

- h. The public benefit expected from the utility service as compared to the risk involved.

H. Appearance Standards:

1. The city may prohibit the installation of facilities in particular locations in order to preserve visual quality.
2. A facility may be constructed only if its construction does not require extensive removal or alteration of trees or terrain features visible to the highway user or impair the aesthetic quality of the lands being traversed. (Ord. 2406, 11-5-2007)

7-5-16: CONSTRUCTION METHODS AND MATERIALS:

A. Standards And Requirements For Particular Types Of Construction Methods:

1. Boring Or Jacking:
 - a. Pits And Shoring: Boring or jacking under rights of way shall be accomplished from pits located at a minimum distance specified by the director of public works from the edge of the pavement. Pits for boring or jacking shall be excavated no more than forty eight (48) hours in advance of boring or jacking operations and backfilled within forty eight (48) hours after boring or jacking operations are completed. While pits are open, they shall be clearly marked and protected by barricades. Shoring shall be designed, erected, supported, braced, and maintained so that it will safely support all vertical and lateral loads that may be imposed upon it during the boring or jacking operation.
 - b. Wet Boring Or Jetting: Wet boring or jetting shall not be permitted under the roadway.
 - c. Borings With Diameters Greater Than Six Inches: Borings over six inches (6") (0.15 m) in diameter shall be accomplished with an auger and following pipe, and the diameter of the auger shall not exceed the outside diameter of the following pipe by more than one inch (1") (25 mm).
 - d. Borings With Diameters Six Inches Or Less: Borings of six inches (6") or less in diameter may be accomplished by either jacking, guided with auger, or auger and following pipe method.
 - e. Tree Preservation: Any facility located within the drip line of any tree designated by the city to be preserved shall be bored under or around the root system.
2. Trenching: Trenching for facility installation, repair, or maintenance on rights of way shall be done in accord with the applicable portions of section 603 of IDOT's "Standard Specifications For Road And Bridge Construction" or with city standards, whichever standards are more restrictive.
 - a. Length: The length of open trench shall be kept to the practicable minimum consistent with requirements for pipeline testing. Only one-half ($1/2$) of any intersection may have an open trench at any time unless special permission is obtained from the director of public works.
 - b. Open Trench And Excavated Material: Open trench and windrowed excavated material shall be protected as required by chapter 6 of the "Illinois Manual On Uniform Traffic Control Devices".

Where practicable, the excavated material shall be deposited between the roadway and the trench as added protection. Excavated material shall not be allowed to remain on the paved portion of the roadway. Where right of way width does not allow for windrowing excavated material off the paved portion of the roadway, excavated material shall be hauled to an off road location.

- c. Drip Line Of Trees: The utility shall not trench within the drip line of any tree designated by the city to be preserved.

3. Backfilling:

- a. Any pit, trench, or excavation created during the installation of facilities shall be backfilled for its full width, depth, and length using methods and materials in accordance with IDOT's "Standard Specifications For Road And Bridge Construction" or with city standards, whichever standards are more restrictive. When excavated material is hauled away or is unsuitable for backfill, suitable granular backfill as determined by the director of public works shall be used.
- b. For a period of three (3) years from the date construction of a facility is completed, the utility shall be responsible to remove and restore any backfilled area that has settled due to construction of the facility. If so ordered by the director of public works, the utility, at its expense, shall remove any pavement and backfill material to the top of the installed facility, place and properly compact new backfill material, and restore new pavement, sidewalk, curbs, and driveways to the proper grades, as determined by the director of public works.

- 4. Pavement Cuts: Pavement cuts for facility installation or repair shall be permitted on a highway only if required by sound engineering judgment, as determined by the director of public works.

If a variance to the limitations set forth in this subsection A4 is permitted under section 7-5-21 of this chapter, the following requirements shall apply:

- a. Any excavation under pavements shall be backfilled as soon as practicable with granular material of CA-6 or CA-10 gradation, as designated by the director of public works.
- b. Restoration of pavement, in kind, shall be accomplished as soon as practicable, and temporary repair with bituminous mixture shall be provided immediately. Any subsequent failure of either the temporary repair or the restoration shall be rebuilt upon notification by the city.
- c. All saw cuts shall be full depth.
- d. For all rights of way which have been reconstructed with a concrete surface/base in the last seven (7) years, or resurfaced in the last three (3) years, permits shall not be issued unless such work is determined to be an emergency repair or other work considered necessary and unforeseen before the time of the reconstruction or unless a pavement cut is necessary for a JULIE locate.

5. Encasement:

- a. Casing pipe shall be designed to withstand the load of the highway and any other superimposed loads. The casing shall be continuous either by one piece fabrication or by welding or jointed installation approved by the city.
- b. The venting, if any, of any encasement shall extend within one foot (1') (0.3 m) of the right of way line. No aboveground vent pipes shall be located in the area established as clear zone for that particular section of the highway.

- c. In the case of water main or service crossing, encasement shall be furnished between bore pits unless continuous pipe or city approved jointed pipe is used under the roadway. Casing may be omitted only if pipe is installed prior to highway construction and carrier pipe is continuous or mechanical joints are of a type approved by the city. Bell and spigot type pipe shall be encased regardless of installation method.
 - d. In the case of gas pipelines of sixty (60) psig or less, encasement may be eliminated.
 - e. In the case of gas pipelines or petroleum products pipelines with installations of more than sixty (60) psig, encasement may be eliminated only if: 1) extra heavy pipe is used that precludes future maintenance or repair and 2) cathodic protection of the pipe is provided.
 - f. If encasement is eliminated for a gas or petroleum products pipeline, the facility shall be located so as to provide that construction does not disrupt the right of way.
6. Minimum Cover Of Underground Facilities: Cover shall be provided and maintained at least in the amount specified in the following table for minimum cover for the type of facility:

Type Of Facility	Minimum Cover
Electric lines	30 inches (0.8 m)
Communication, cable or video service lines	18 to 24 inches (0.6 m, as determined by city)
Gas or petroleum products	30 inches (0.8 m)
Water line	Sufficient cover to provide freeze protection
Sanitary sewer, storm sewer, or drainage line	Sufficient cover to provide freeze protection

B. Standards And Requirements For Particular Types Of Facilities:

1. Electric Power Or Communication Lines:

- a. Code Compliance: Electric power or communications facilities within city rights of way shall be constructed, operated, and maintained in conformity with the provisions of 83 Illinois administrative code 305 (formerly general order 160 of the Illinois commerce commission) entitled "rules for construction of electric power and communications lines", and the national electrical safety code.
- b. Overhead Facilities: If overhead facilities have been permitted by the city under section 7-5-15 of this chapter, the overhead power or communication facilities shall use single pole construction and, where practicable, joint use of poles shall be used. Utilities shall make every reasonable effort to design the installation so guys and braces will not be needed. Variances may be allowed if there is no feasible alternative and if guywires are equipped with guy guards for maximum visibility.
- c. Underground Facilities:
 - (1) Cable may be installed by trenching or plowing, provided that special consideration is given to boring in order to minimize damage when crossing improved entrances and side roads.
 - (2) If a crossing is installed by boring or jacking, encasement shall be provided between jacking or bore pits. Encasement may be eliminated only if: a) the crossing is installed by the use of "moles", "whip augers", or other approved methods which compress the earth to make the opening for

cable installation or b) the installation is by the open trench method which is only permitted prior to roadway construction.

(3) Cable shall be grounded in accordance with the national electrical safety code.

- d. Burial Of Drops: All temporary service drops placed between November 1 of the prior year and March 15 of the current year, also known as snow drops, shall be buried by May 31 of the current year, weather permitting, unless otherwise permitted by the city. Weather permitting, utilities shall bury all temporary drops, excluding snow drops, within ten (10) business days after placement.
2. Underground Facilities Other Than Electric Power Or Communication Lines: Underground facilities other than electric power or communication lines may be installed by:
 - a. The use of "moles", "whip augers", or other approved methods which compress the earth to move the opening for the pipe;
 - b. Jacking or boring with vented encasement provided between the ditch lines or toes of slopes of the highway;
 - c. Open trench with vented encasement between ultimate ditch lines or toes of slopes, but only if prior to roadway construction; or
 - d. Tunneling with vented encasement, but only if installation is not possible by other means.
 3. Gas Transmission, Distribution And Service: Gas pipelines within rights of way shall be constructed, maintained, and operated in a city approved manner and in conformance with the federal code of the office of pipeline safety operations, department of transportation, part 192 - transportation of natural and other gas by pipeline: minimum federal safety standards (49 CFR 192), IDOT's "Standard Specifications For Road And Bridge Construction", and all other applicable laws, rules, and regulations.
 4. Petroleum Products Pipelines: Petroleum products pipelines within rights of way shall conform to the applicable sections of ANSI standard code for pressure piping (liquid petroleum transportation piping systems ANSI-B 31.4).
 5. Water Lines, Sanitary Sewer Lines, Storm Water Sewer Lines Or Drainage Lines: Water lines, sanitary sewer lines, storm sewer lines, and drainage lines within rights of way shall meet or exceed the recommendations of the current "Standard Specifications For Water And Sewer Main Construction In Illinois" and city standards.
 6. Ground Mounted Appurtenances: Ground mounted appurtenances to overhead or underground facilities, when permitted within a right of way by variance, shall be provided with a vegetation free area extending one foot (1') (305 mm) in width beyond the appurtenance in all directions. The vegetation free area may be provided by an extension of the mounting pad, or by heavy duty plastic or similar material approved by the director of public works. With the approval of the director of public works, shrubbery surrounding the appurtenance may be used in place of vegetation free area. The housing for ground mounted appurtenances shall be painted a neutral color to blend with the surroundings.

C. Materials:

1. General Standards: The materials used in constructing facilities within rights of way shall be those meeting the accepted standards of the appropriate industry, the applicable portions of IDOT's

"Standard Specifications For Road And Bridge Construction" and city standards, the requirements of the Illinois commerce commission, or the standards established by other official regulatory agencies for the appropriate industry.

2. **Material Storage On Right Of Way:** All pipe, conduit, wire, poles, cross arms, or other materials shall be distributed along the right of way prior to and during installation in a manner to minimize hazards to the public or an obstacle to right of way maintenance or damage to the right of way and other property. If material is to be stored on right of way, prior approval must be obtained from the city. No materials may be stored in the floodway or floodplain.
3. **Hazardous Materials:** The plans submitted by the utility to the city shall identify any hazardous materials that may be involved in the construction of the new facilities or removal of any existing facilities.

D. Operational Restrictions:

1. Construction operations on rights of way may, at the discretion of the city, be required to be discontinued when such operations would create hazards to traffic or the public health, safety, and welfare. Such operations may also be required to be discontinued or restricted when conditions are such that construction would result in extensive damage to the right of way or other property.
2. These restrictions may be waived by the director of public works when emergency work is required to restore vital utility services.
3. Unless otherwise permitted by the city, the hours of construction shall be between seven o'clock (7:00) A.M. and seven o'clock (7:00) P.M.

E. Location Of Existing Facilities: Any utility proposing to construct facilities in the city shall contact JULIE and ascertain the presence and location of existing aboveground and underground facilities within the rights of way to be occupied by its proposed facilities. The city will make its permit records available to a utility for the purpose of identifying possible facilities. When notified of an excavation or when requested by the city or by JULIE, a utility shall locate and physically mark its underground facilities within forty eight (48) hours, excluding weekends and holidays, in accordance with the Illinois underground facilities damage prevention act¹. (Ord. 2406, 11-5-2007)

7-5-17: VEGETATION CONTROL:

- A. Electric Utilities; Compliance With State Laws And Regulations:** An electric utility shall conduct all tree trimming and vegetation control activities in the right of way in accordance with applicable Illinois laws and regulations and, additionally, with such local franchise or other agreement with the city as permitted by law.

B. Other Utilities; Tree Trimming Permit Required: Tree trimming that is done by any other utility with facilities in the right of way and that is not performed pursuant to applicable Illinois laws and regulations specifically governing same, shall not be considered a normal maintenance operation, but shall require the application for, and the issuance of, a permit, in addition to any other permit required under this chapter.

1. Application For Tree Trimming Permit: Applications for tree trimming permits shall include assurance that the work will be accomplished by competent workers with supervision who are experienced in accepted tree pruning practices. Tree trimming permits shall designate an expiration date in the interest of assuring that the work will be expeditiously accomplished.
2. Damage To Trees: Poor pruning practices resulting in damaged or misshapen trees will not be tolerated and shall be grounds for cancellation of the tree trimming permit and for assessment of damages. The city will require compensation for trees extensively damaged and for trees removed without authorization. The formula developed by the International Society of Arboriculture will be used as a basis for determining the compensation for damaged trees or unauthorized removal of trees. The city may require the removal and replacement of trees if trimming or radical pruning would leave them in an unacceptable condition.

C. Specimen Trees Or Trees Of Special Significance: The city may require that special measures be taken to preserve specimen trees or trees of special significance. The required measures may consist of higher poles, side arm extensions, covered wire or other means.

D. Chemical Use:

1. Except as provided in the following subsection, no utility shall spray, inject or pour any chemicals on or near any trees, shrubs or vegetation in the city for any purpose, including the control of growth, insects or disease.
2. Spraying of any type of brush killing chemicals will not be permitted on rights of way unless the utility demonstrates to the satisfaction of the director of public works that such spraying is the only practicable method of vegetation control. (Ord. 2406, 11-5-2007)

7-5-18: REMOVAL, RELOCATION, OR MODIFICATIONS OF UTILITY FACILITIES:

A. Notice: Within ninety (90) days following written notice from the city, a utility shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any utility facilities within the rights of way whenever the corporate authorities have determined that such removal, relocation, change or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any city improvement in or upon, or the operations of the city in or upon, the rights of way.

B. Removal Of Unauthorized Facilities: Within thirty (30) days following written notice from the city, any utility that owns, controls, or maintains any unauthorized facility or related appurtenances within the public

rights of way shall, at its own expense, remove all or any part of such facilities or appurtenances from the public rights of way. A facility is unauthorized and subject to removal in the following circumstances:

1. Upon expiration or termination of the permittee's license or franchise, unless otherwise permitted by applicable law;
2. If the facility was constructed or installed without the prior grant of a license or franchise, if required;
3. If the facility was constructed or installed without prior issuance of a required permit in violation of this chapter; or
4. If the facility was constructed or installed at a location not permitted by the permittee's license or franchise.

C. **Emergency Removal Or Relocation Of Facilities:** The city retains the right and privilege to cut or move any facilities located within the rights of way of the city, as the city may determine to be necessary, appropriate or useful in response to any public health or safety emergency. If circumstances permit, the city shall attempt to notify the utility, if known, prior to cutting or removing a facility and shall notify the utility, if known, after cutting or removing a facility.

D. **Abandonment Of Facilities:** Upon abandonment of a facility within the public rights of way of the city, the utility shall notify the city within ninety (90) days. Following receipt of such notice the city may direct the utility to remove all or any portion of the facility if the director of public works determines that such removal will be in the best interest of the public health, safety and welfare. In the event that the city does not direct the utility that the abandoned facility be removed, the abandoning utility shall be deemed to consent to the alteration or removal of all or any portion of the facility by another utility or person at the city's sole discretion. (Ord. 2406, 11-5-2007)

7-5-19: CLEANUP AND RESTORATION:

Upon completion of all construction or maintenance of facilities, the utility shall remove all excess material and restore all turf and terrain in a timely manner and to the satisfaction of the city. This includes restoration of entrances and side roads. Restoration of roadway surfaces shall be made using materials and methods approved by the director of public works. Such cleanup and repair may be required to consist of backfilling, regrading, reseeding, resodding, or any other requirement to restore the right of way to a condition substantially equivalent to that which existed prior to the commencement of the project and as per city standards. (Ord. 2406, 11-5-2007)

7-5-20: MAINTENANCE AND EMERGENCY MAINTENANCE:

- A. General: Facilities on, over, above, along, upon, under, across, or within rights of way are to be maintained by or for the utility in a manner satisfactory to the city and at the utility's expense.
- B. Emergency Maintenance Procedures: Emergencies may justify noncompliance with normal procedures for securing a permit:
1. If an emergency creates a hazard on the traveled portion of the right of way, the utility shall take immediate steps to provide all necessary protection for traffic on the highway or the public on the right of way including the use of signs, lights, barricades or flaggers. If a hazard does not exist on the traveled way but the nature of the emergency is such as to require the parking on the shoulder of equipment required in repair operations, adequate signs and lights shall be provided. Parking on the shoulder in such an emergency will only be permitted when no other means of access to the facility is available.
 2. In an emergency, the utility shall, as soon as possible, notify the director of public works or his or her duly authorized agent of the emergency, informing him or her as to what steps have been taken for protection of the traveling public and what will be required to make the necessary repairs. If the nature of the emergency is such as to interfere with the free movement of traffic, the city police shall be notified immediately.
 3. In an emergency, the utility shall use all means at hand to complete repairs as rapidly as practicable and with the least inconvenience to the traveling public.
- C. Emergency Repairs: The utility must file in writing with the city a description of the repairs undertaken in the right of way within forty eight (48) hours after an emergency repair. (Ord. 2406, 11-5-2007)

7-5-21: VARIANCES:

- A. Request For Variance: A utility requesting a variance from one or more of the provisions of this chapter must do so in writing to the director of public works as a part of the permit application. The request shall identify each provision of this chapter from which a variance is requested and the reasons why a variance should be granted.
- B. Authority To Grant Variances: The director of public works shall decide whether a variance is authorized for each provision of this chapter identified in the variance request on an individual basis.
- C. Conditions For Granting Of Variance: The director of public works may authorize a variance only if the utility requesting the variance has demonstrated that:
1. One or more conditions not under the control of the utility (such as terrain features or an irregular right of way line) create a special hardship that would make enforcement of the provision unreasonable, given the public purposes to be achieved by the provision; and

2. All other designs, methods, materials, locations or facilities that would conform with the provision from which a variance is requested are impracticable in relation to the requested approach.

D. Additional Conditions For Granting Of A Variance: As a condition for authorizing a variance, the director of public works may require the utility requesting the variance to meet reasonable standards and conditions that may or may not be expressly contained within this chapter but which carry out the purposes of this chapter.

E. Right To Appeal: Any utility aggrieved by any order, requirement, decision or determination, including denial of a variance, made by the director of public works under the provisions of this chapter shall have the right to appeal to the city council, or such other board or commission as it may designate. The application for appeal shall be submitted in writing to the city clerk within thirty (30) days after the date of such order, requirement, decision or determination. The city council shall commence its consideration of the appeal at the council's next regularly scheduled meeting occurring at least seven (7) days after the filing of the appeal. The city council shall timely decide the appeal. (Ord. 2406, 11-5-2007)

7-5-22: PENALTIES:

Any person who violates, disobeys, omits, neglects or refuses to comply with any of the provisions of this chapter shall be subject to a fine of not less than two hundred fifty dollars (\$250.00) nor more than seven hundred fifty dollars (\$750.00) for each offense, and a separate offense shall be deemed committed for each and every day during which a violation continues or exists. There may be times when the city will incur delay or other costs, including third party claims, because the utility will not or cannot perform its duties under its permit and this chapter. Unless the utility shows that another allocation of the cost of undertaking the requested action is appropriate, the utility shall bear the city's costs of damages and its costs of installing, maintaining, modifying, relocating, or removing the facility that is the subject of the permit. No other administrative agency or commission may review or overrule a permit related cost apportionment of the city. Sanctions may be imposed upon a utility that does not pay the costs apportioned to it. (Ord. 2406, 11-5-2007)

7-5-23: ENFORCEMENT:

Nothing in this chapter shall be construed as limiting any additional or further remedies that the city may have for enforcement of this chapter. (Ord. 2406, 11-5-2007)